

CHAPTER 6

TRIAL COURTS

ARTICLE 7

INTERPRETERS IN COURT

Section.

6-701. Scope and effective date.

6-702. Interpreter register.

6-703. Appointment of interpreters.

6-704. Examination for interpreter certification.

6-705. Certified court interpreter requirements.

6-706. Registered court interpreter requirements.

6-707. Investigation of complaints and imposition of sanctions.

Appendix 1. Code of professional responsibility for interpreters.

§ 6-701. Scope and effective date.

These rules become effective on September 20, 2000, and will, as amended, govern the use of interpreters in all courts of the State of Nebraska.

Scope and Effective Date amended September 17, 2003. Renumbered and codified as § 6-701, effective July 18, 2008.

§ 6-702. Interpreter register.

The State Court Administrator will publish and maintain a statewide register of interpreters which will consist of the following:

(A) Certified Court Interpreters: Court interpreters who have satisfied all certification requirements pursuant to § 6-705.

(B) Registered Court Interpreters. Noncertified court interpreters who have not satisfied the requirements of § 6-705, but have completed an interpreter orientation program sponsored by the State Court Administrator and achieved a passing score on a written examination administered by the State Court Administrator, as well as achieved a score of 50 percent or better on each section of the oral legal interpreting examination administered or approved by the State Court Administrator.

(C) Other Court Interpreters. Non-certified court interpreters who have not satisfied the requirements of § 6-705 or § 6-706.

(D) Sign Language Court Interpreters. Sign language interpreters must be licensed, as required by Neb. Rev. Stat. § 20-151 and must possess either a Level I, Level II, or Level III classification awarded by the Nebraska Commission for the Deaf and Hard of Hearing, as set forth below:

Level I - Interpreters with current Legal Specialist certification from the Registry of Interpreters for the Deaf (SC:L).

Level II - Interpreters with current certification from the Registry of Interpreters for the Deaf (CI/CT, CSC, NIC Master, NIC Advanced, NIC (basic), and Deaf interpreters certified by the Registry of Interpreters for the Deaf).

Level III - Interpreters with either a CI or CT certification from the Registry of Interpreters for the Deaf, or Nebraska state classification of QAST 5/5 or 4/4 or a combination of both, or Nebraska licensed Intermediary Interpreters (Deaf Interpreters).

Diligent efforts must be made to obtain an interpreter with the highest level certification before allowing an interpreter with a lower level certification to interpret.

[Originally numbered as] Rule 1(A) – (D) amended September 17, 2003; [originally numbered as] Rule 1(D) amended January 4, 2007, effective July 1, 2007; [originally numbered as] Rule 1(B) – (D) amended June 25, 2008, effective July 1, 2008. Renumbered and codified as § 6-702, effective July 18, 2008; § 6-702(A) – (D) amended October 21, 2009; § 6-702(D) amended May 12, 2010.

§ 6-703. Appointment of interpreters.

(A) Use of Certified Court Interpreter. Whenever an interpreter is required to be appointed by a court, the court shall first attempt to appoint a certified court interpreter who is listed on the statewide register of interpreters if one is reasonably available.

(B) Use of Registered Court Interpreter on Statewide Register. If the court has made diligent efforts to obtain a certified court interpreter as required by § 6-703(A) and found none to be available, the court may appoint a registered court interpreter who is otherwise competent to interpret in the courts.

(C) Use of Other Court Interpreter. If the court has made diligent efforts to obtain a certified court interpreter and a registered court interpreter, and found none to be available, the court may appoint a court interpreter who is otherwise competent to interpret in the courts. All arrangements for interpreters shall be made by authorized court personnel. Hearings for parties who appear with their own interpreter may be continued pending the court's determination of language needs of the individual and the qualifications of the interpreter, if a certified or registered interpreter is not available. Provided, however, in proceedings in which a Spanish interpreter is utilized, only a certified or registered interpreter shall be allowed. In proceedings in which a sign interpreter is utilized, only an interpreter awarded a Level I or Level II classification by the Nebraska Commission for the Deaf and Hard of Hearing shall be allowed.

(D) To determine whether a certified or registered interpreter is reasonably available, reasonable advance attempts must be made to arrange for the presence of a certified interpreter prior to the use of a registered interpreter, and then, for the presence of a registered interpreter prior to the use of an interpreter who is not certified or registered.

(E) Number of Interpreters. For any proceeding that is scheduled for more than one-half day, two language interpreters shall be appointed. For any proceeding that is scheduled for more than one hour, two sign interpreters shall be appointed.

(F) Rebuttable Presumption. There is a rebuttable presumption that an interpreter must be appointed if an interpreter is requested or it is shown that the party is having difficulty in communicating.

(G) All interpreters shall be at least 19 years old, shall have read the Code of Professional Responsibility for Interpreters, shall take the Interpreter Oath and shall verify in writing that he/she has

read and understands the Code of Professional Responsibility for Interpreters prior to interpreting in the Nebraska Courts or the Nebraska State Probation System.

(H) Individuals serving as interpreters for the State of Nebraska, pursuant to these rules, shall not be considered employees of the State of Nebraska.

See Appendix 1 for Code and Interpreter Oath.

[Originally numbered as] Rule 2(B) – (D) amended September 17, 2003; [originally numbered as] Rule 2(D) moved to (G) on January 4, 2007, effective July 1, 2007; [originally numbered as] Rule 2(D) – (F) adopted January 4, 2007, effective July 1, 2007; [originally numbered as] Rule 2(B) – (D) and (G) amended June 25, 2008, effective July 1, 2008. Renumbered and codified as § 6-703, effective July 18, 2008; §§ 6-703(A)-(C) and (E)-(H) amended October 21, 2009.

§ 6-704. Examination for interpreter certification.

(A) Submission of Application. An individual who is desirous of being considered for certification as either a certified or a registered interpreter as defined in these rules, in a particular language, must submit an application, on form(s) approved by the State Court Administrator, to the office of the State Court Administrator.

(B) Evaluation of Application. The State Court Administrator will evaluate the application and determine if the applicant meets the initial qualification requirements of either § 6-705 or § 6-706 (minimum age and absence of criminal convictions and/or pending charges based on criminal history record check). If initial qualification requirements are met, applicants will be required to take a 2-day orientation.

(C) Orientation for interpreters will include an introduction to Nebraska Courts and court proceedings, the ethics of a court interpreter, vocabulary, and the skills needed to assume the responsibilities of a court interpreter and pass the oral examination for certification. After completing orientation, applicants will be required to take a written examination.

(D) Written Examination. The written examination to qualify to take the oral examination of § 6-705(D) shall require no fee and shall consist of three parts: general English language vocabulary, court-related terms and usage, and ethics and professional conduct. The written examination will be administered at such times and places as the State Court Administrator may designate. The State Court Administrator shall waive this requirement for any interpreter who has previously taken the oral interpreter competency examination of § 6-704(E). If the applicant achieves a passing score (80 percent or higher) on the written examination, the applicant shall then be required to take an oral examination.

(E) Oral Examination. Oral examinations in specific languages will consist of three components: sight interpretation, consecutive interpretation, and simultaneous interpretation. Such examinations will be administered at such times and places as the State Court Administrator may designate. Results of the oral certification examinations will be e-mailed or mailed by regular U.S. Mail to the applicant, per applicant's request.

(F) Confidentiality. All information relating to the examination is treated as confidential by the State Court Administrator and test administrators except that statistical information relating to the examinations and applicants may be released at the discretion of the State Court Administrator.

§ 6-704 adopted October 21, 2009.

§ 6-705. Certified court interpreter requirements.

A certified court interpreter must be able to interpret simultaneously and consecutively and provide sight translation from English to the language of the non-English-speaking person and from the language of that person into English. An interpreter will be eligible for certification upon establishing to the satisfaction of the State Court Administrator that he or she has:

(A) Reached the age of 19;

(B) Had no past convictions or pending criminal charges, either felony or misdemeanor, which are deemed by the Supreme Court to evidence moral turpitude, dishonesty, fraud, deceit, or misrepresentation. Dispositions of criminal charges other than by acquittal or dismissal (e.g., pretrial diversion) may also be the basis for denial of certification;

(C) Completed the orientation approved by the State Court Administrator;

(D) Achieved a passing score (80 percent or higher) on a written examination administered by the State Court Administrator; and

(E) Achieved a passing score (70 percent or higher on each segment) on the oral certification examination (Consortium oral certification examination) administered or approved by the State Court Administrator as described in § 6-704(E). If an interpreter shall have received a passing score of 70 percent on any of the three segments of a previous Consortium oral certification examination that was administered within the last 3 calendar years, the passing grade shall be honored and the applicant shall not be required to repeat that segment of a current examination.

(F) In addition, any interpreter possessing a Federal Court Certified Court Interpreter Certificate, a Court Interpreter Certification Certificate from any state which is a member of the National Center for State Court's Consortium for Language Access in the Court, formerly known as the Constorium for State Court Interpreter Certification, or a sign language Specialist Certificate Legal (SC:L) for interpreters that are fully certified (CI/CT, NIC Master or MIC Advanced, CSC, or CDI) or provisional legal certificate (CLIP) is recognized as a certified court interpreter.

[Originally numbered as] Rule 3(C) – (E) amended September 17, 2003. Renumbered and codified as § 6-704, effective July 18, 2008; § 6-704 renumbered to § 6-705 and amended October 21, 2009.

§ 6-706. Registered court interpreter requirements.

(A) A registered court interpreter must be able to interpret simultaneously and consecutively and provide sight translation from English to the language of the non-English-speaking person and from the language of that person into English, only when a certified interpreter is not available. See § 6-703(B).

(B) An interpreter will be eligible for registration as a registered interpreter upon establishing to the satisfaction of the State Court Administrator that he or she has:

(1) Reached the age of 19;

(2) Had no past convictions or pending criminal charges, either felony or misdemeanor, which are deemed by the Supreme Court to evidence moral turpitude, dishonesty, fraud, deceit, or

misrepresentation. Dispositions of criminal charges other than by acquittal or dismissal (e.g. pretrial diversion) may also be the basis for denial of certification;

(3) Completed the orientation approved by the State Court Administrator;

(4) Achieved a passing score (80 percent or higher) on a written examination administered by the State Court Administrator; and

(5) Achieved a score of 50 percent or better on the oral certification examination administered or approved by the State Court Administrator as described in § 6-704(E). Registered interpreters in languages for which the oral certification is not available will be retained upon the list of registered interpreters only upon submission to the State Court Administrator some other measure of language competence (e.g., a passing score on an oral proficiency exam) acceptable by the State Court Administrator.

§ 6-706 amended October 21, 2009.

§ 6-707. Investigation of complaints and imposition of sanctions.

(A) Grounds for Imposition of Sanctions. Any of the following may be grounds for imposition of sanctions against a certified or registered interpreter:

(1) Unprofessional or unethical conduct that violates the Code of Professional Responsibility (see Appendix 1);

(2) Conviction of a criminal charge, either misdemeanor or felony, which is deemed by the Supreme Court to evidence moral turpitude, dishonesty, fraud, deceit, or misrepresentation. Dispositions of criminal charges other than by acquittal or dismissal (e.g., pretrial diversion) may also constitute grounds for suspension or revocation; and

(3) Incompetence as an interpreter.

(B) Investigation and Notification of Grounds for Imposition of Sanctions. Upon receipt by the State Court Administrator of a complaint in writing against a certified or registered interpreter, or upon the initiation by the office of the State Court Administrator itself of a complaint, such complaint shall be investigated, to determine if the complaint warrants formal action. In any case where formal action is deemed necessary, written notice of the complaint shall be sent by certified mail to the interpreter, and that interpreter shall have 15 days to file a written response with the Office of the State Court Administrator. Upon receipt and review of any such written response, the State Court Administrator may take any of the following actions:

(1) immediately suspend the certification of the interpreter and schedule a hearing;

(2) dismiss the complaint; or

(3) schedule a hearing to consider the complaint formally.

(C) Scheduling of Formal Hearing. If the State Court Administrator elects to schedule a formal hearing, such hearing shall be held within 30 days of the receipt by the State Court Administrator of the written response. A panel of three individuals shall be responsible for the conduct of the formal hearing: one of the judge members of the Interpreter Advisory Committee shall preside over the hearing, together with two interpreters from the Interpreter Advisory Committee to be appointed by the judge presiding over the

hearing. If requested, any individual whose attendance is sought at the formal hearing shall be permitted to appear telephonically and/or by video connection. Notice of the time and place of the formal hearing shall be given by certified mail to the interpreter under complaint, at least 15 days prior thereto.

(D) Conduct of Formal Hearing. The hearing panel shall receive such information and/or documentation as it sees fit, including, if deemed appropriate by the panel, the taking of testimony. At the conclusion of the hearing, the panel may take any such action as it determines appropriate, including the immediate suspension or revocation of the interpreter under complaint, the dismissal of the complaint, or the imposition of any of the other sanctions described in § 6-707(E) below. The rules of evidence do not apply to these hearings.

(E) Sanctions. If sufficient cause exists, the State Court Administrator may impose one or more of the following sanctions:

- (1) Issue a written reprimand;
- (2) Specify corrective action with which the interpreter must comply in order to remain on the statewide register of interpreters, including the completion of educational courses and/or re-taking one or more parts of the legal interpreting competency examination;
- (3) Suspend the interpreter from serving as an interpreter in the Nebraska courts for a specified period of time, or until corrective action is completed; and
- (4) Revoke the standing of and permanently prohibit the interpreter from serving as an interpreter in Nebraska courts.

(F) No interpreter who has been suspended or revoked shall be utilized as an interpreter in any judicial proceeding in the State of Nebraska, nor shall such interpreter be entitled to any compensation from the State Court Administrator's Office, during his or her suspension or revocation.

(G) Complaints made against a sign language interpreter shall be processed pursuant to the procedure set forth in Rules and Regulations Relating to Sign Language Interpreters adopted by the Nebraska Commission for the Deaf and Hard of Hearing.

§ 6-707 adopted October 21, 2009.

APPENDIX 1

CODE OF PROFESSIONAL RESPONSIBILITY FOR INTERPRETERS

Preamble.

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency or a speech or hearing impairment. It is essential that the resulting communication barrier be removed, as far as possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier. As officers of the court, interpreters help ensure that such persons may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively. Interpreters are highly skilled professionals who fulfill an essential role in the administration of justice.

Applicability.

This Code shall guide and be binding upon all persons, agencies, and organizations who administer, supervise use of, or deliver interpreting services to the judiciary.

Canon 1. Accuracy and completeness.

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.

Canon 2. Representation of qualifications.

Interpreters shall accurately and completely represent what their training and pertinent experience is and any certification they may have.

Canon 3. Impartiality and avoidance of conflict of interest.

Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias. Interpreters shall disclose any real or perceived conflict of interest.

Canon 4. Professional demeanor.

Interpreters shall conduct themselves in a manner consistent with the formality and civility of the court and shall draw as little attention to themselves as possible.

Canon 5. Confidentiality.

Interpreters shall keep confidential all privileged and other confidential information.

Canon 6. Restriction of public comment.

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

Canon 7. Scope of practice.

Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

Canon 8. Assessing and reporting inabilities to perform.

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment completely, they shall immediately convey that reservation to the appropriate judicial authority.

Canon 9. Duty to report ethical violations.

Interpreters shall report to the proper judicial authority any effort to encourage a lack of compliance with any law, any provision to this Code, or any other official policy governing court interpreting and legal translating.

Canon 10. Professional development.

Interpreters shall strive to continually improve their skills and knowledge and advance the profession through activities such as professional training and education, and interactions with colleagues and specialists in related fields.

INTERPRETER OATH

I, _____, swear or affirm that I will, to the best of my skill and judgment, after my appointment as interpreter, make a true _____ interpretation of all

(Language)

court proceedings, probation activities, or any other proceeding into a language which the party understands and that I will in the English language repeat the party's statements to the court or jury.

Rules Relating to Court Interpreters adopted September 20, 2000; amended September 17, 2003. Renumbered and codified as Neb. Ct. R. §§ 6-701 – 6-706, effective July 18, 2008.